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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/448,804	11/24/1999	DAVID L. SALGADO	D/99253-690	5473
7590 CLARENCE A GREEN PERMAN & GREEN LLP 425 POST ROAD FAIRFIELD, CT 06430			EXAMINER PANNALA, SATHYANARAYA R	
			ART UNIT 2164	PAPER NUMBER
			MAIL DATE 11/10/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/448,804

Applicant(s)

SALGADO ET AL.

Examiner

Sathyanarayan Pannala

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's Amendment filed on 6/20/2008 has been entered with amended claims 1, 3, 12. In this Office Action, claims 1-21 are pending.

Claim Objections

2. Claims 2, 4-11 and 13-14 are objected to because of the following informalities: Dependent claims and should start with the word "The" instead of an article "A". Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. The claim has the phrase "the system being manager being configured to". This claim is an omnibus type claim .

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claim 1-21 are rejected under 35 U.S.C. 101, because none of the claims are directed to statutory subject matter. Independent claims 1, 3 and 12, even though claiming as multiple platform architecture, all the limitations are software per se. Claim 3 even though a method claim, the steps are not useful, concrete and tangible results are not produced. There is no relation for preamble of the claim 3 to three limitations. The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Descriptive material can be characterized as either “functional descriptive material” or “nonfunctional descriptive material.” Both types of “descriptive material” are nonstatutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive

material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, do not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.").

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Fujiwara (US Patent) hereinafter Fujiwara.

9. As per independent claim 1, Fujiwara teaches the claimed, a multiple platform architecture data reporting system for managing attribute data, the system, embodied on a computer readable medium (col. 1, lines 20-23, **computer software programs and architecture and relates to a system and method for creating substitute registry when automatically installing an update program**), comprising:

a system manager, the system being manager being adapted (col. 1, lines 29-31, **computer software programs typically include a series of instructions that control the operation and functionality of computer systems**) to:

collect attribute data including copyright data pertaining to software from multiple platforms (Fig. 4, col. 6, lines 15-16 and lines 22-24, **the browser program may possess selected attributes from client configuration files 340 may include information regarding the system directories or system registries for client software and other information currently residing on client 120**);

recognize the copyright data in the attribute data (Fig. 4, 9, col. 6, lines 28-31 and col. 10, **client registries 355 may include selected information regarding software on client 120, such as the names, version levels, and storage locations of the resident software programs and miscellaneous information 918 may include, but is not limited to, a copyright notice, a license agreement, a description of the corresponding software, a user identification number, and a password**); and

process the copyright data into a list of copyright data for the system (Fig. 9, col. 10, lines 3-6, **download module 430 preferably performs a comparison procedure between one or more download files 420 listed on network page 410 and the**

software programs currently installed on client 120); and

a user interface connected to the system manager for displaying the collected attribute data in the list to a user (Fig. 3, col. 6, lines 51-53, **viewed and accessed by a system user by displaying client registries 355 on a graphical user interface (GUI) of client 120).**

10. As per dependent claim 2, Fujiwara teaches the claimed, a multiple platform architecture data reporting system as in claim 1 wherein the system manager comprises memory for storing attribute data collected by the system manager (Fig. 2-3, lines 51-55, **non-volatile memory 240 preferably includes a client application 310, middleware 320, middleware 325, a browser program 330, client configuration files 340, and client registries 355).**

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 3-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujiwara (US Patent) hereinafter Fujiwara, and in view of Schwarz, Jr. (US Patent 6,476,927).

13. As per independent claim 3, Fujiwara teaches the claimed, a method for managing attribute data in a multiple platform architecture (col. 1, lines 20-23, **computer software programs and architecture and relates to a system and method for creating substitute registry when automatically installing an update program**), the method comprising the steps of:

Fujiwara teaches the claimed, displaying the collected attribute data on a user display for managing attribute data in the multiple platform architecture (Fig. 3, col. 6, lines 51-53, **viewed and accessed by a system user by displaying client registries 355 on a graphical user interface (GUI) of client 120**)

Fujiwara does not teach polling at least platforms. However, Schwarz teaches the claimed, polling at least two platforms for attribute data (Fig. 7, col. 5, line 67 to col. 6, line 1, **the printer server 14 polls 76 the available printer devices 20 for their availability and current work load**);

Schwarz teaches the claimed, collecting the attribute data from the at least two platforms in response to the step of polling (Fig. 7, col. 6, lines 1-3, **from the polling information, the printer server decides 78 if there is at least one compatible device 20 online**). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention, to have combined the teachings of the cited references because Schwarz's teachings would have allowed Fujiwara's method to minimize network loads, while providing central printer control (col. 3, lines 58-60).

14. As per dependent claim 4, Fujiwara and Schwarz combined teaches independent claim 3. Schwarz teaches the claimed, automatically polling the at least two platforms during power on of at least one of the at least two platforms (Fig. 7, col. 6, lines 1-3, **from the polling information, the printer server decides 78 if there is at least one compatible device 20 online**). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention, to have combined the teachings of the cited references because Schwarz's teachings would have allowed Fujiwara's method to minimize network loads, while providing central printer control. (col. 3, lines 58-60).

15. As per dependent claim 5, Fujiwara teaches the claimed, step of polling at least two platforms for attribute data further comprises the step of polling at least one of the at least two platforms when polling is initiated by a user request (Page 1, paragraph [0011] and paragraph [0049], **the copyright of digital data provided by the data providing device is inspected and the information is taken from the device**).

16. As per dependent claim 6, Fujiwara teaches the claimed step of “the step of collecting the copyright information from the at least two platforms (Fig. 4, col. 6, lines 15-16 and lines 22-24, **the browser program may possess selected attributes from client configuration files 340 may include information regarding the system directories or system registries for client software and other information currently residing on client 120**).

17. As per dependent claim 7, Fujiwara teaches the claimed, the step of collecting the attribute data from the at least two platforms in response to the step of polling further comprises the step of collecting the license information from the at least two platforms (Fig. 9, col. 10, lines 20-23, **miscellaneous information 918 may include, but is not limited to, a copyright notice, a license agreement, a description of the corresponding software, a user identification number, and a password**).

18. As per dependent claim 8, Fujiwara teaches the claimed, the step of storing the attribute data in non-volatile memory (Fig. 2-3, lines 51-55, **non-volatile memory 240 preferably includes a client application 310, middleware 320, middleware 325, a browser program 330, client configuration files 340, and client registries 355**).

19. As per dependent claim 9, Fujiwara teaches the claimed, the step of displaying the collected attribute data on a user display further comprises the step of automatically

displaying the attribute data collected from the at least two platforms (Fig. 3, col. 6, lines 51-53, **viewed and accessed by a system user by displaying client registries 355 on a graphical user interface (GUI) of client 120**).

20. As per dependent claim 10, Fujiwara teaches the claimed, the step of displaying the collected attribute data on a user display further comprises the step of manually displaying the attribute data collected from the at least two platforms (Fig. 3, col. 6, lines 51-53, **viewed and accessed by a system user by displaying client registries 355 on a graphical user interface (GUI) of client 120**).

21. As per dependent claim 11, Fujiwara teaches the claimed, the step of displaying the collected attribute data on a user display further comprises the step of displaying only non-copyright attribute data collected from the at least two platforms (Fig. 9, col. 10, lines 20-23, **miscellaneous information 918 may include, but is not limited to, a copyright notice, a license agreement, a description of the corresponding software, a user identification number, and a password**).

22. As per independent claim 12, Fujiwara teaches the claimed, A software copyright information managing system embodied on a computer readable medium for managing software copyright data in a multiple platform electronic architecture (col. 1, lines 20-23, **computer software programs and architecture and relates to a system and**

method for creating substitute registry when automatically installing an update program), the system comprising:

Fujiwara teaches the claimed, collecting the software copyright data" as the attributes of the digital data are recorded at least a file size for URLs (Fig. 4, col. 6, lines 15-16 and lines 22-24, **the browser program may possess selected attributes from client configuration files 340 may include information regarding the system directories or system registries for client software and other information currently residing on client 120. Fig. 1, col. 7, lines 60-64, system user of client 120 (FIG. 1) accesses network page 410 by entering a corresponding network address or uniform resource locator (URL), and browser program 330 responsively connects client 120 to network page 410).**

Fujiwara teaches the claimed, a user interface connected to the system controller for displaying the software copyright data from the memory to a user (Fig. 3, col. 6, lines 51-53, **viewed and accessed by a system user by displaying client registries 355 on a graphical user interface (GUI) of client 120).**

Fujiwara does not explicitly teach a system controller for collecting data. However, Schwarz teaches the claimed, a system controller for collecting the data from multiple platforms (Fig. 7, col. 6, lines 1-3, **the central printer server 14 for the polling information and the printer server decides 78 if there is at least one compatible device 20 online).** Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention, to have combined the teachings of the cited

references because Schwarz's teachings would have allowed Fujiwara's method to minimize network loads, while providing central printer control. (col. 3, lines 58-60).

23. As per dependent claim 13, Fujiwara teaches the claimed, the system controller for collecting the software copyright data from multiple platforms further comprises a memory for storing the software copyright data collected by the system controller (Fig. 1, col. 4, lines 28-30, **client 120 preferably communicates bi-directionally with database server 150 to access and store various types of information**).

24. As per dependent claim 14, Fujiwara teaches the claimed, the memory for storing the software copyright data collected by the system controller further comprises non-volatile memory (Fig. 2-3, lines 51-55, **non-volatile memory 240 preferably includes a client application 310, middleware 320, middleware 325, a browser program 330, client configuration files 340, and client registries 355**).

25. As per dependent claim 15, Fujiwara teaches the claimed, the system manager collects attribute data from multiple platforms simultaneously (Fig. 1, col. 4, lines 15-17, **client-server system 160 may typically include a substantially larger number of additional client systems**).

26. As per dependent claim 16, Fujiwara teaches the claimed, the attribute data collected is attribute data stored on the multiple platforms and is passed to the user

interface" (Fig. 1, col. 4, lines 15-19, **client-server system 160 may typically include a substantially larger number of additional client systems. Each of the additional client systems is preferably likewise configured to communicate with database server 150 and network 100).**

27. As per dependent claim 17, Fujiwara teaches the claimed "the list is a list of copyright years for the system in its entirety" as the attributes of the digital data the last update date (Fig. 6, col. 8, lines 3-5, **download module 430 then preferably compares the update module(s) listed on network page 410 and the software residing on client 120).**

28. As per dependent claim 18, Fujiwara teaches the claimed, the attribute data comprises copyright and license data related to software (Fig. 9, col. 10, lines 20-23, **miscellaneous information 918 may include, but is not limited to, a copyright notice, a license agreement, a description of the corresponding software, a user identification number, and a password).**

29. As per dependent claim 19, Fujiwara teaches the claimed "the attribute data is a list of copyright years related to each software object of the system (Fig. 6, col. 7, line 64 to col. 8, line 2, **Network page 410 preferably contains information relating to one or more update programs that may be appropriate for client 120. For**

example, network page 410 may contain the name and version number of one or more update programs that client 120 may wish to download and install).

30. As per dependent claim 20, Fujiwara teaches the claimed, the multiple platforms comprise document processing apparatus (Fig. 3, col. 5, lines 57-61, **client application 310 preferably includes software instructions that are executed by CPU 210 to perform a particular computing function for a system user. For example, client application 310 may perform computing tasks such as word processing, accounting, or business management projects).**

31. As per dependent claim 21, Fujiwara teaches the claimed "the attribute data comprising copyright data for each software object on each platform (Fig. 3, col. 6, lines 19-21, **client configuration files 340 may include information regarding the system directories or system registries for client software and other information currently residing on client 120).**

Response to Arguments

32. Applicant's arguments filed 6/20/2008 have been fully considered but they are not persuasive, and details as follow:

a) Applicant's stated as "The claims are amended to address the claim objections. Specifically, the dependent claims are amended to start with the word 'The' instead of the article 'A'. "

In response, Applicant statement is not correct, because Applicant did not amend any dependent claims and therefore, the claims objection is maintained.

b) Applicant's argument stated as "Claim 1 is amended to address the rejection under 35 U.S.C. §112, 2nd paragraph."

In response to Applicant argument, examiner respectfully disagrees. Because Applicant replaced the word "adapted" with "configured" and the amendment did not over come the rejection. The claim is indefinite and therefore the rejection is maintained.

c) Applicant's argument stated regarding claim 1 under 35 U.S.C. 101 as "recites that the 'system' is embodied on a 'computer readable medium' it is submitted that at for this reason, the claim is directed to statutory subject matter."

In response to Applicant argument, Examiner respectfully disagrees. Because, a 'system' in the claim preamble is 'data reporting system' and it is a software system with programming code. Software is not a statutory subject matter. Additionally, "Computer readable medium" is not defined in the specification. The Memory 25 specified in specification as volatile or non-volatile (see specification, page 5, lines 3-4). When a computer is connected to volatile

memory the data will not be stored permanently for a while and every time the data collected may be changed and data reporting system will be considered as not reliable and dependent. Therefore, the claim 1 is a non-statutory and the rejection is maintained.

d) Applicant's argument stated as "Fujiwara does not disclose or suggest a system manager that 'collects' copyright data pertaining to software from 'multiple platforms'."

In response to Applicant argument, Examiner respectfully disagrees. Because, the reference by Fujiwara do teach dealing with multiple platforms and collecting the information from clients (see at Fig. 1, col. 5, lines 1-7).

Conclusion

33. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sathyanarayan Pannala whose telephone number is (571) 272-4115. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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/Sathyanarayan Pannala/
Primary Examiner, Art Unit 2164

srp
March 14, 2008